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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/028,730	10/19/2001	Michael Collins	00-682	4112
7590	06/30/2009		EXAMINER	
George A. Coury BACHMAN & LaPOINTE, P.C. Suite 1201 900 Chapel Street New Haven, CT 06510-2802			KRAMER, DEVON C	
		ART UNIT	PAPER NUMBER	
		3746		
			MAIL DATE	DELIVERY MODE
			06/30/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte:* MICHAEL COLLINS, RICHARD D'AVERSA,

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Application 10/028,730  
Technology Center 3700

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Mailed: June 30, 2009

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Before ERIC W. HAWTHORNE, *Supervisory Paralegal Specialist*  
HAWTHORNE, *Supervisory Paralegal Specialist*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on September 22, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

**FINAL REJECTION, EXAMINER'S ANSWER**

On page 1 of the Final Rejection mailed on August 21, 2006, number 6 states:

Claim(s) 1-7, 17-24, 26-32, 37-42 is/are rejected.

Further review of pages 2-5 of the Final Rejection reveal the following rejections:

Claims 37 to 40 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement.

Claims 1, 2, 3, 17, and 24, as understood, are rejected under 35 U.S.C. § 102(b) a being anticipated by Gunn et al (US 5,820,352).

Claims 6, 7, 18, 19, 21 to 23, 26 to 28 and 30 to 32, as understood, are rejected under 35 U.S.C. § 103(a) as being unpatentable over Gunn et al in view of Kauffman et al (US 5,209,076).

Claims 4, 5, 20, and 29, as understood, are rejected under 35 U.S.C. § 103(a) as being unpatentable over Gunn et al in view of Allison et al (5,772,403).

The Examiner reiterated the above grounds of rejection in the Examiner's Answer mailed February 25, 2008, but failed to discuss the rejection of claims 41 and 42 in both the Final Rejection and Examiner's Answer. Corrective action is required.

**CONCLUSION**

Accordingly, it is ORDERED that the application is returned to the Examiner:

- 1) vacate the Examiner's Answer mailed July 25, 2008, and generate a new Examiner's Answer setting forth the correct Grounds of rejection to be reviewed on appeal and to correct other sections of the Answer as may be required;
- 2) to include the approval of the TC Director or his/her designee (as required for any new grounds of rejection); and
- 3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

EWH/pgc

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